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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,037	07/24/2002	Anthony George Standfast Piper	DPC0010	9571

27187 7590 10/10/2003  
BAKER & DANIELS  
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SUITE 250  
SOUTH BEND, IN 46601

EXAMINER
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LOFDAHL, JORDAN M

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/089,037

Applicant(s)

PIPER ET AL.

Examiner

Jordan Lofdahl

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on election (9/11/03).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-16 and 20-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3644

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Species A, Fig. 1-3 in Paper No. 14 is acknowledged.

Claims 11 and 17-19 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 14.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate (4212129) and further in view of Taylor (4856226).

As to claim 1, Shumate discloses a device comprising an outer casing (15) with an opening and an electromagnetic source (42). Not disclose is an inner casing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise an inner casing, since it has been held that mere duplication of essential working parts of a device

Art Unit: 3644

involves only routine skill in the art. Disclosed is the inner casing, as modified, having a cover (16) tapering from a first cross-section which matches the outer opening to a second cross section. Not disclosed is a back wall. Taylor, however, discloses an inner back wall (27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Shumate with the back wall of Taylor to create an enclosed inner casing that can be a receptacle for insects. Disclosed is the back wall being transparent and the and the source being positioned within the outer casing outside the chamber. Not disclosed is the cover being transparent to electromagnetic radiation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the cover being transparent to electromagnetic radiation, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 2, disclosed is a trap, as modified, comprising an inner casing further comprising side wall means connected to the cover at its first cross-section and to the back wall, the chamber being defined by the internal surfaces of the back wall, the cover and the side wall means.

As to claim 3, disclosed is a trap, as modified, comprising the limitations as disclosed in the instant claim.

As to claim 4, disclosed is the source positioned between the back wall of the inner casing and the closed end (19) of the outer casing.

Art Unit: 3644

As to claim 5, not disclosed is the cover integrally formed with the back wall and the side wall means. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the cover to be integrally formed with the back wall and side wall means, since it has been held that forming one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

As to claim 6, disclosed is a light source.

As to claims 8-10, 13, not disclosed is the outer casing having a generally square or rectangular cross section and the entry port being substantially square. In the absence of any stated problems solved by or any stated advantage obtained by having the outer casing having a generally square or rectangular cross section and the entry port being substantially square as claimed in the instant invention; It would have been obvious to one of ordinary skill in the art at the time the invention was made to comprise the device, as modified of Shumate with the outer casing having a generally square or rectangular cross section and the entry port being substantially square. Further such modification is merely an alternate equivalent shape performing the same intended function.

As to claim 12, disclosed is a circular entry port.

As to claim 14, disclosed is the outer casing opaque to electromagnetic radiation (dark color).

Art Unit: 3644

As to claims 15 and 16, not disclosed is the cover and back wall made of a plastic or acrylic plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the back wall of plastic or acrylic plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claims 7, 20-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shumate (4212129) in view of Taylor (4856226) and further in view of Mah (6134826).

As to claim 20, not disclosed is a deterrent means positioned within the inner casing adjacent the entry port. Mah, however, discloses a deterrent means (17). Not disclosed is the deterrent means adjacent the entry port. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the deterrent means adjacent the entry port, since it has been held that rearranging parts of an invention only involves routine skill in the art.

As to claim 21, disclosed are the limitations of the instant claim.

As to claims 22 and 23, not disclosed are the electrodes spaced apart by a distance range from 0.5mm to 2.5mm or substantially 1mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to space the electrodes apart by a distance range

Art Unit: 3644

from 0.5mm to 2.5mm or substantially 1mm, since it has been held that discovering the optimum or workable ranges involves only routine skill in the art.

As to claims 24 and 25, not disclosed are the electrodes width being in the range from 0.5mm to 2.5mm or substantially 1mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise electrodes width in the range from 0.5mm to 2.5mm or substantially 1mm, since it has been held that discovering the optimum or workable ranges involves only routine skill in the art.

As to claims 26, disclosed is a voltage current capable of being AC.

As to claim 27, disclosed is a current limiting means (81).

As to claim 28, disclosed are the insects capable of being stunned.

As to claim 29, disclosed are the limitations of the instant claim.

As to claims 7 and 30, not disclosed is an UV source. Mah, however, discloses a UV source. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device, as modified, of Shumate with the IUV source of Mah. to create a means to attract pests that are attracted to UV.

Art Unit: 3644

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on M-F 7-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703.306.4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4148.

*Charles T. Jordan*

CHARLES T. JORDAN  
SUPERVISOR  
ART UNIT 3644

Jordan Lofdahl  
Examiner  
Art Unit 3644

jml